



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**June 29, 2005**

**SUBJECT:**           **2005-0512 - Rob Moore** [Applicant] **Evelyn LLC** [Owner]:  
Application for a 5,434 sq. ft. tenant space on a 1.2 acre site  
located at **1140 W. Evelyn Avenue** (near Bernardo Avenue  
in an MS (Industrial and Service) Zoning District (APN: 161-  
31-035);

**MOTION:**           Use Permit to allow an educational use in and industrial  
building;

**REPORT IN BRIEF**

**Existing Site Conditions**           An existing building in an Industrial Zoned area

**Surrounding Land Uses**

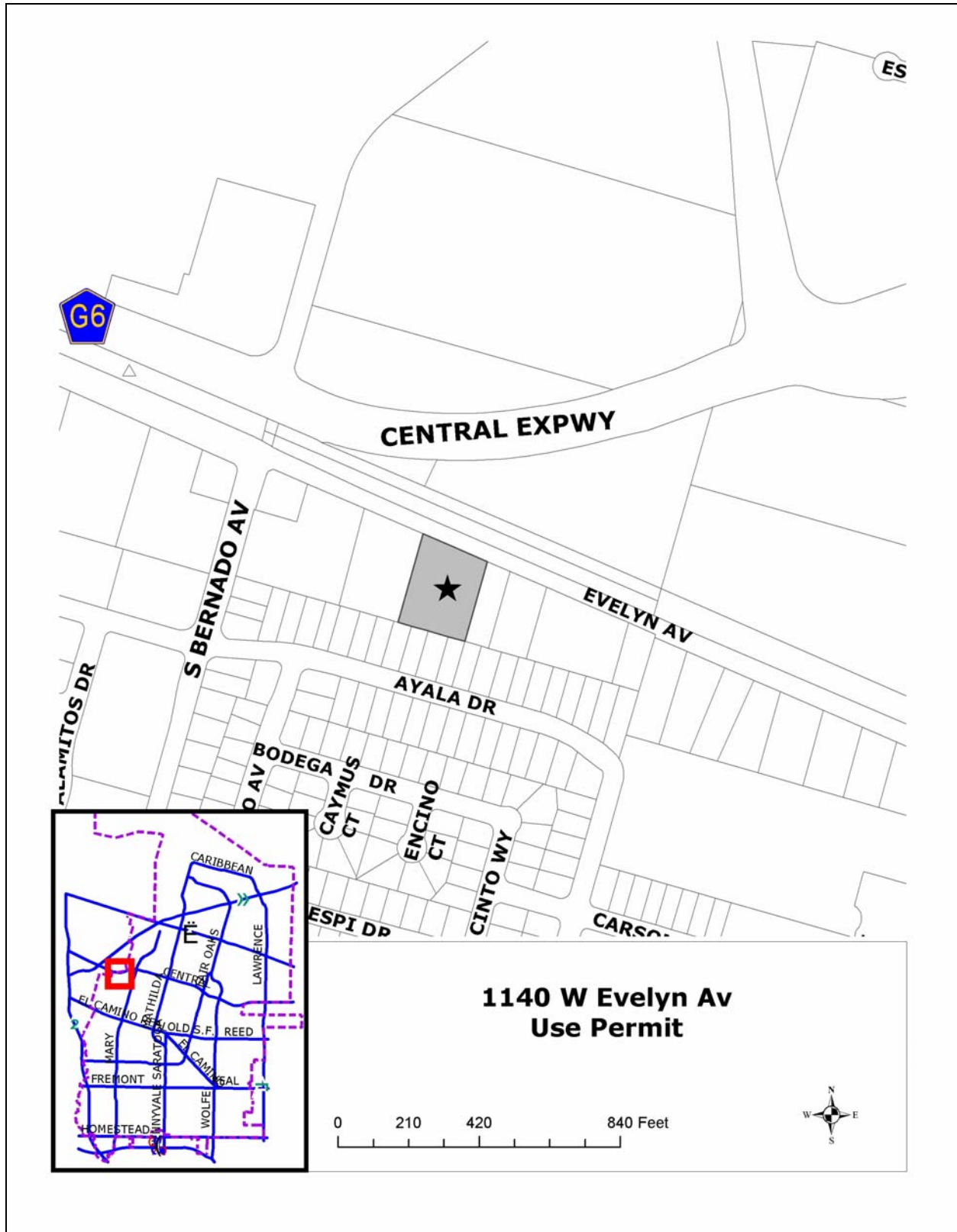
North	Across Evelyn and railroad tracks, Residential Mobile Homes
South	Medium Density Residential
East	Industrial
West	Industrial

**Issues**                               Parking  
Compatibility of use in Industrial Zoned area

**Environmental Status**           A Class 1 Categorical Exemption relieves this project from  
California Environmental Quality Act provisions and City  
Guidelines.

**Staff Recommendation**           Deny







**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Industrial	Same	Industrial
<b>Zoning District</b>	M-S	Same	M-S
<b>Lot Size (s.f.)</b>	52,098	Same	22,500 min.
<b>Gross Floor Area (s.f.)</b>	21,025	Same	23,444 max.
<b>Tenant Space Floor Area (s.f.)</b>	5,256	Same	---
<b>No. of Tenant Spaces</b>	4	Same	N/A
<b>No. of Buildings On-Site</b>	1	Same	N/A
<b>Parking</b>			
• <b>Total Spaces</b>	63	Same	63 min. by UP
• <b>Spaces available to tenant</b>	15	Same	25 min.



Starred items indicate deviations from Municipal Code requirements.

**ANALYSIS****Description of Proposed Project**

The applicant proposes an educational center to serve children in grades Kindergarten through 12<sup>th</sup> to provide tutoring, language and religious education in an existing industrial building.

**Background**

**Previous Actions on the Site:** The following table summarizes previous planning applications related to the subject site.

<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
2004-0852	Use Permit and Parcel Map to allow subdivision of existing industrial building	Planning Commission / Approved	1/10/2005
1998-0133	To re-stripe parking lot for 62 parking spaces	Staff / Approved	3/26/1998



<b>File Number</b>	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
1997-0594	To allow administrative office and training facility for visually impaired persons	Administrative Hearing / Approved	1/14/1998
UP 7773	To allow auto related uses in an existing industrial building	Administrative Hearing / Approved	2/10/1993
UP 4486	To regularize existing equipment at rear of building and to allow a basketball court	Administrative Hearing / Approved	4/24/1981

### **Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemption includes change of use.

### **Use Permit**

**Use:** The proposed use of the site is for tutoring, language training, religious education, dance, and karate classes.

During the school year, the proposed hours of operation are 3:00 p.m. to 6:00 p.m. Monday through Friday, as well as 9:00 a.m. to 6:00 p.m. on Saturday and Sunday. During the summer, there is a proposed 10 week program that would operate 9:00 a.m. to 6:00 p.m. seven days a week.

The age of the students ranges from Kindergarten to high school, with 90% of the children in the range of Kindergarten to 8<sup>th</sup> grade, and 10% of the children being 9<sup>th</sup> through 12<sup>th</sup> grade. The student to teacher ratio at the Education Center is one teacher for every 12 students.

The applicant has proposed up to five classrooms in addition to an auditorium, library, computer room and storage space that would be ancillary uses to the classrooms. The tenant space also contains an office, bathrooms and entrance lobby. The applicant proposes a maximum of 68 students for the five classrooms. The applicant stated the intent to begin with just 3 classrooms and to eventually expand to expand to 5 classes.

On weekdays, students would typically be dropped off at the Education Center after school during the regular school year. Approximately 70% of the students would be at the center for the full 3 hours, and 30% would attend class for only one hour and then leave. On the weekends and during the 10 week summer program, students may be onsite all day.



**Site Layout:** The subject site has a one-story industrial building located on a lot with parking in the front and rear and shared driveway easements on either side of the building to allow access to the rear parking lot and garbage collection. The site was recently approved for a Parcel Map to allow the subdivision of the existing building into four separate ownership units on one common lot. The current owner is in the process of completing the requirements of the Use Permit and Parcel Map to finalize the subdivision. Three of the tenant spaces are currently vacant and one is occupied by an educational facility which provides job training for the visually impaired. The proposed project would be located adjacent to the existing job training center.

**Landscaping:** A new landscaping plan was developed as part of the recently approved Use Permit and Parcel Map. The property owner is currently working on completing the landscaping requirements. Although those improvements do not bring the site into full compliance with the current Municipal Code standards, the modifications were approved by the Planning Commission on January 10, 2005.

**Parking/Circulation:** The subject site contains a total of 60 parking spaces, including 3 accessible spaces and 23 compact spaces. Once the Parcel Map is complete, 15 parking spaces will be allocated to each of the four tenant spaces, resulting in a total of only 15 parking spaces for this proposed project.

The applicant has indicated that the computer room, library, and auditorium would only be used as ancillary space for the classrooms and would only be used by the corresponding students if a class was not in session. Based on that assumption, the following table indicates that there is a deficit of 8 parking spaces for the proposed use.

Use	Parking Ratios	Number	Parking Required
Classroom – grades 9 to 12	1 space/ 4 students	12 students	3
Classrooms – grades K to 8	3 space / classroom	4 classes	12
Gym and other facilities (calculated for all other uses)*	1 space / 3 fixed seat + 1 space / 21 sq. ft. open area + <b>1 space / 400 sq. ft.</b> of addl. floor area	2,834 sq. ft.	7
Warehouse / storage	1 space / 900 sq. ft.	900 sq. ft.	1
<b>Total Required</b>			<b>23</b>
<b>Deficit</b>			<b>-8</b>
<i>15 available</i>			



\* All non-classroom area calculated as “additional floor space”.

Given the deficit of parking, staff discussed developing a Transportation Management Plan (TMP) with the applicant. The applicant has suggested several options, including requesting parents to carpool and shuttling students from an alternative parking site. The applicant is working on a shared parking agreement with a church located at 175 East Dana Street in Mountain View located 1.1 miles from the subject site.

**Compliance with Development Standards/Guidelines:** The proposed project is not in compliance with the General Plan or Municipal Code on two issues: compatibility with allowable uses in an Industrial Zoned area and deficit of available parking.

Educational, recreational or community center uses are not generally desirable for Industrial Zoned areas for several reasons, including safety issues and restriction of use on neighboring sites. Environmental health concerns for children or the elderly using such sites may restrict future industrial uses on surrounding sites zoned for industrial use. The City Council has noted such incompatible uses as an issue of concern and directed staff to study the appropriateness as well as possible requirements and standards for places of assembly in industrial and commercial zones. The results of this study issue are not anticipated until early 2006. Until this study is complete and new policy established, staff has been urged to be conservative in reviewing such applications.

With that perspective as a basis for review, staff has noted that the subject site has residential properties both directly north and south of the site. In addition, one of the onsite tenant spaces has an existing educational facility which provides training and support for visually disabled persons. Further, the concern of potential exposure of the students to chemicals from surrounding sites may be reduced by limiting the hours the students will be on-site. During the regular school year, students would be on-site for a maximum of 3 hours. However, on weekends and during the summer program, classes are proposed for the full day.

The parking deficit is also an issue. This may be addressed by requiring the proposed Transportation Management Plan (TMP) as a Condition of Approval. The TMP including a the following restrictions:

- Limit the total number of students,
- Restrict the use of all non-classroom space to ancillary uses (auditorium, library and computer room),
- Restrict the number of students of driving age (grades 9 to 12), and
- Require the shared parking agreement to be signed with the church.



**Expected Impact on the Surroundings:** The proposed project may restrict allowable uses on the subject site or on neighboring Industrially Zoned sites. The proposed use may also result in a parking deficit if the TMP is not utilized correctly and may result in temporary traffic congestion on site when a group of students are being dropped off or picked up for classes.

### **Fiscal Impact**

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This project is subject to a Transportation Impact Fee (see Attachment B Condition of Approval 20). No fiscal impacts other than normal fees and taxes are expected.

### **Public Contact**

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A total of 36 notices were mailed to the surrounding areas and nine were returned by the Post Office.

<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"><li>• Published in the <i>Sun</i> newspaper</li><li>• Posted on the site</li><li>• 36 notices mailed to property owners and residents adjacent to the project site</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City of Sunnyvale's Website</li><li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li></ul>	<ul style="list-style-type: none"><li>• Posted on the City's official notice bulletin board</li><li>• City of Sunnyvale's Website</li><li>• Recorded for SunDial</li></ul>

### **Conclusion**

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**Discussion:** Staff is concerned that the proposed project is too ambitious for the existing site conditions. It results in too many students utilizing too small of a space. The site allows for no exterior usable open space. Permitting this use will potentially expose children to hazardous materials for prolonged periods of time if the neighboring industrial sites are occupied by allowable uses for an Industrial Zone. These two issues may be addressed in part if the number of students is limited and the daily allowable on-site hours are limited for each child (see Conditions of Approval 13 - 15 in Attachment B). However, staff does not believe this is fully adequate because it still presents a risk for children and, with the subdivision of the property, enables a potential hazard to be directly adjacent to the subject site.



Another major concern is the available parking. While that applicant has proposed a shared parking agreement with another facility, the location is over one mile from the subject site, which may result in a disincentive for parents. The parking deficit would be decreased by reducing the number of students and faculty. If the restrictions provided in the proposed Conditions of Approval are imposed (see Conditions 13 and 14 in Attachment B), the following provides a revised analysis for the required parking.

<b>Use</b>	<b>Parking Ratios</b>	<b>Number</b>	<b>Parking Required</b>
Classroom – grades 9 to 12	1 space/ 4 students	12 students	3
Classrooms – grades K to 8	3 space / classroom	2 classes	6
Gym and other facilities	1 space / 400 sq. ft.	3,734 sq. ft.	7
Warehouse / storage	1 space / 900 sq. ft.	900 sq. ft.	1
<b>Total Required</b>			<b>17</b>
<b>Deficit</b> <i>15 available</i>			<b>-2</b>

However, this reduction of students still results in a parking deficit of 2 spaces. Further, providing 3 classes concurrently will likely result in traffic congestion on the site near the beginning and end of the classes.

**Findings and General Plan Goals:** Staff is recommending denial for this project because the Findings (Attachment A) were not made. However, if the Administrative Hearing Officer is able to make the required findings, staff is recommending the Conditions of Approval (Attachment B).

**Conditions of Approval:** Conditions of Approval are located in Attachment B.

### **Alternatives**

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1. Deny the Use Permit.
2. Approve the Use Permit with attached conditions.
3. Approve the Use Permit with modified conditions.



**Recommendation**

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Alternative 1.

Prepared by:

Jamie McLeod  
Project Planner

Reviewed by:

Diana O'Dell  
Senior Planner

Attachments:

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site Plans
- D. Letter from the Applicant



**Recommended Findings - Use Permit**

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Goals and Policies that relate to this project are:

**Land Use and Transportation Element. Policy C1.1:**

*Recognize that the City is composed of residential, industrial and commercial neighborhoods, each with its own individual character; and allow change consistent with reinforcing positive neighborhood values.*

**Action Statement C1.1.2:** Promote and achieve compliance with land use and transportation standards.

**Land Use and Transportation Element. Policy N1.14:**

*Support the provision of a full spectrum of public and quasi-public services (e.g. parks, day care, group living, recreation centers, religious institutions) that are appropriately located in residential, commercial, and industrial neighborhoods and ensure that they have beneficial effects on the surrounding area.*

**Land Use and Transportation Sub-Element. Policy N1.3.** *Support a full spectrum of conveniently located commercial, public, and quasi-public uses that add to the positive image of the City.*

1. The proposed use does not attain the objectives and purposes of the General Plan of the City of Sunnyvale as the proposed educational use is located in an industrial zone which runs counter to the intent of land use in the general zoning designation. The proposed use may place children at risk and may limit possibilities for new industrial uses to move into the area.
2. While the proposed use is desirable, it will be materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the Zoning District. The proposed educational use will likely impact the allowable surrounding uses in the vicinity of the subject site.



**Recommended Conditions of Approval - Use Permit**

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Staff is recommending denial. If the Hearing Officer chooses to approve the Use Permit, the following conditions are suggested.

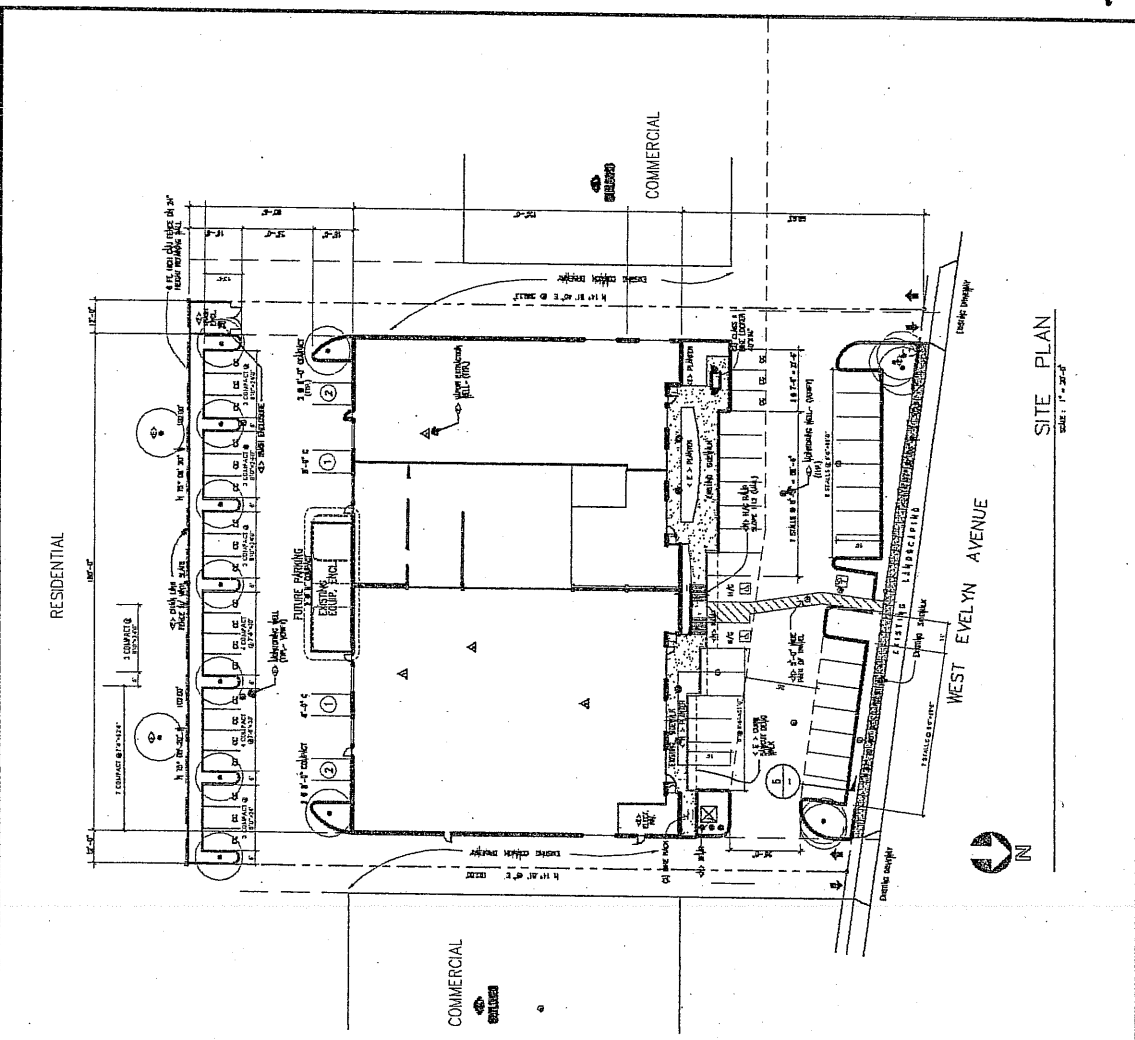
In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit. Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

1. Conditions of Approval shall be reproduced on the cover page of the plans submitted for a Building Permit for this project.
2. This Use Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.
3. The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
4. The exercising of this Use Permit is contingent on the completion of all outstanding requirements of previously approved Use Permit and Parcel Map for File Number 2004-0852.
5. Comply with all outstanding requirements of previously approved Use Permit and Parcel Map for File Number 2004-0852.
6. The Use Permit pertains only to the subject tenant space.
7. Prior to commencement of use, building permits from the City of Sunnyvale shall be obtained for required improvements for the proposed occupancy type and tenant improvements for the building.
8. Prior to commencement of use, approval of plans by the Fire Prevention division of the City of Sunnyvale is required related to the proposed occupancy type, fire safety and protection controls, and emergency exiting and lighting requirements.
9. Any major site plan and architectural modifications or changes to the use shall be treated as an amendment of the original approval and shall be subject to approval at a public hearing, except minor changes of the original approved plans may be approved administratively by the Director of Community Development.
10. The type of use is limited to educational activities.
11. Stagger start times for classes to reduce the traffic congestion due to drop-offs and pick-ups.



12. There shall be a maximum of 3 classrooms on site.
13. Each class shall provide instruction to a maximum of 12 students at one time.
14. There shall be a maximum of twelve 9-12<sup>th</sup> grade students at any given time.
15. Each child shall be permitted to be on site no longer than a total of 3 hours per day, including weekdays and weekends.
16. Hours of operation shall be limited to Monday through Friday from 3:00 p.m. to 6:00 p.m. and Saturday and Sunday from noon to 6:00 p.m.
17. The auditorium, library and computer room shall be ancillary uses to the classrooms. A maximum of 3 of the 6 primary rooms may be used at one time; that is, students may only use three of the 3 classrooms, auditorium, library or computer room at any given time.
18. Develop and implement a Transportation Management Plan with the following requirements:
  - a) Encourage parents to carpool,
  - b) Require the shared parking agreement to be signed with the church.
19. The use shall comply with the City of Sunnyvale Noise Ordinance (SMC 19.24.030).
20. Pay Transportation Impact Fee prior to issuance of Building permits or occupancy, whichever comes first.
21. Obtain a Business License from the Revenue Division prior to commencement of use.
22. All proposed signs shall comply with the Master Sign Program.

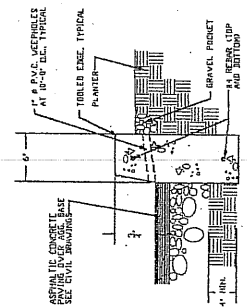




### PROJECT ANALYSIS

<b>LAND AREA:</b>	<b>USE:</b>	<b>AREA:</b>
BUILDING AREA:	RESIDENTIAL	10,000 SQ. FT.
LANDSCAPE AREA:	COMMERCIAL	10,000 SQ. FT.
PAVED AREA:	COMMERCIAL	10,000 SQ. FT.
LANDSCAPE AREA:	COMMERCIAL	10,000 SQ. FT.
TYPE OF CONSTRUCTION:	COMMERCIAL	10,000 SQ. FT.
OCCUPANCY:	COMMERCIAL	10,000 SQ. FT.
FIRE SPRINKLER SYSTEM:	COMMERCIAL	10,000 SQ. FT.
CODE REFERENCES:	COMMERCIAL	10,000 SQ. FT.

<> INTERIOR IMPROVEMENTS  
 (AT HATCH AREAS)



- (DETAILS - FOR REFERENCE ONLY)
- HANDICAPPED PARKING SIGN**  
 12" x 18" SIGN  
 12" x 18" SIGN  
 12" x 18" SIGN
  - HANDICAPPED PARKING SIGN / VAN ACCESS**  
 12" x 18" SIGN  
 12" x 18" SIGN  
 12" x 18" SIGN
  - HANDICAPPED PARKING SIGN / TOW-AWAY SIGN**  
 12" x 18" SIGN  
 12" x 18" SIGN  
 12" x 18" SIGN
  - HANDICAPPED PARKING SYMBOL**  
 12" x 18" SIGN  
 12" x 18" SIGN  
 12" x 18" SIGN

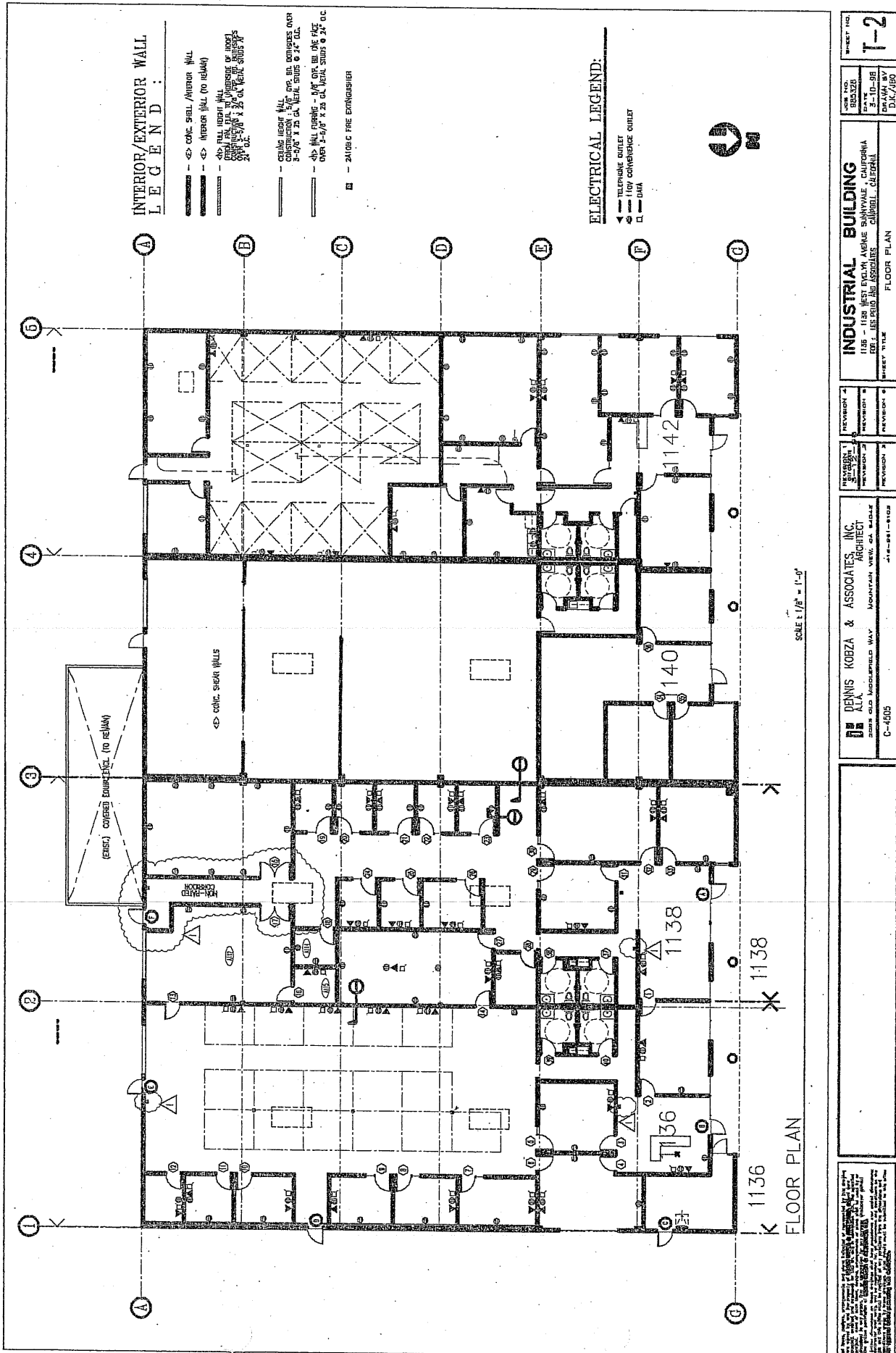
**1138 WEST EVELYN AVENUE**  
 100-100 WEST EVELYN AVENUE, SUITE 100  
 FOR: **RESIDENTIAL AND ASSOCIATES**  
 PROJECT NO. **C-4505**  
 SHEET NO. **T-1**  
 DATE: **11-11-01**  
 DRAWN BY: **WAV**

**DENNIS KOBZA & ASSOCIATES, INC.**  
 ARCHITECT  
 2008 OLD MOBILE WAY  
 MOUNTAIN VIEW, CA 94039  
 C-4505

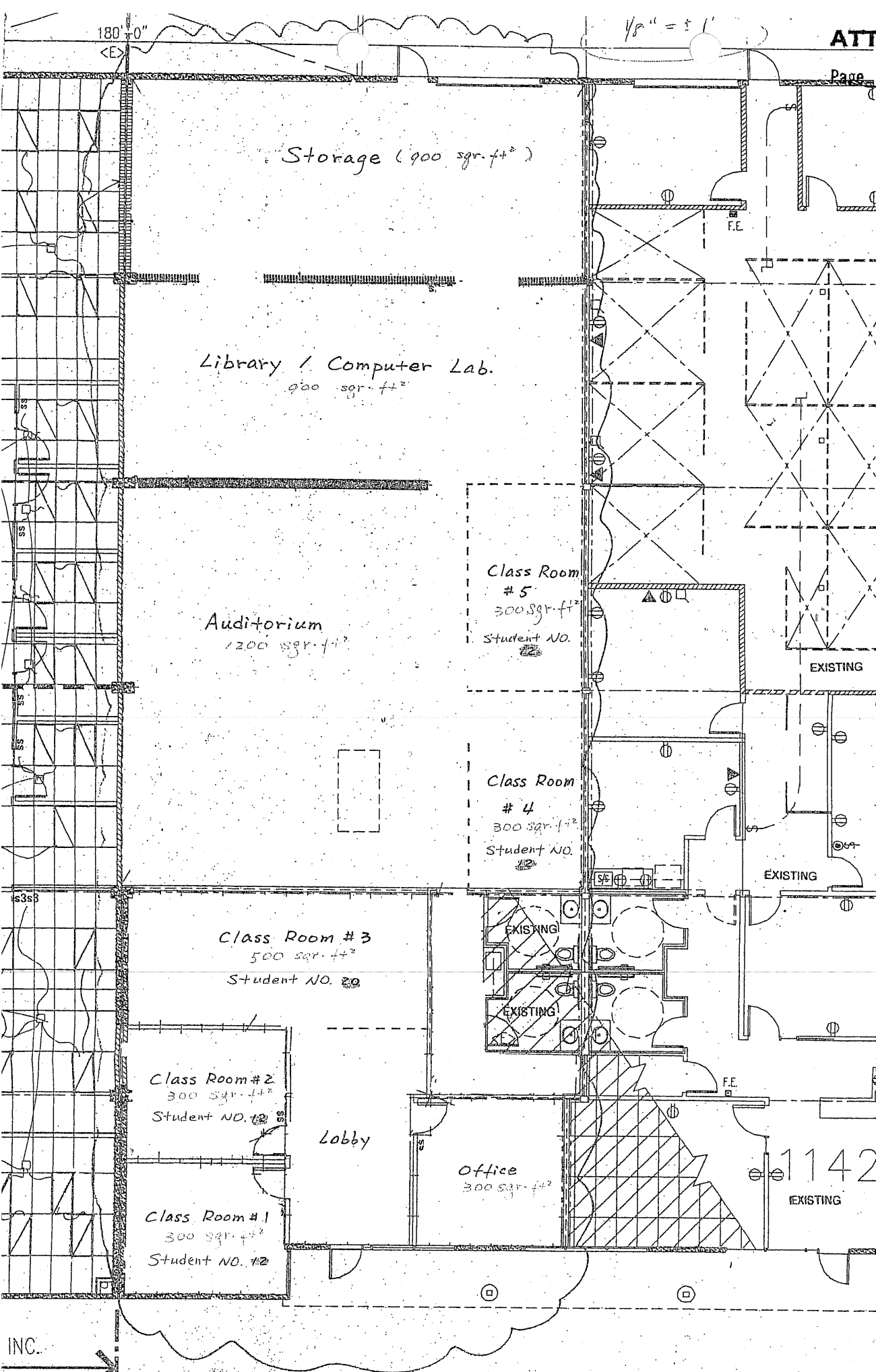
**REVISION 1**  
 REVISION 2  
 REVISION 3  
 REVISION 4

**SITE PLAN**









Storage (900 sq. ft.)

Library / Computer Lab.  
900 sq. ft.

Auditorium  
1200 sq. ft.

Class Room  
#5  
300 sq. ft.  
Student NO. 22

Class Room  
#4  
300 sq. ft.  
Student NO. 12

Class Room #3  
500 sq. ft.  
Student NO. 20

Class Room #2  
300 sq. ft.  
Student NO. 18

Class Room #1  
300 sq. ft.  
Student NO. 12

Lobby

Office  
300 sq. ft.

EXISTING

EXISTING

EXISTING

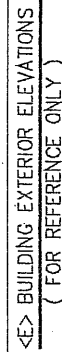
EXISTING

EXISTING

11/4/2

INC.





of flags, drums, trumpets and music, and the soldiers were ordered to march in the streets of the city. The soldiers were ordered to march in the streets of the city. The soldiers were ordered to march in the streets of the city.

**DE** DENNIS KOBZA & ASSOCIATES, INC.  
A.I.A. ARCHITECT  
2088 OLD MIDDLEFIELD WAY MOUNTAIN VIEW, CA 94041

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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**1138 WEST EVELYN AVENUE**  
1138-1139 WEST EVELYN AVENUE  
FBI • LES PRIO AND ASSOCIATES  
CALIFORNIA

JOB NO. 046664	DATE 11/24/01	DRAWN BY
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T-4



CUP APPLICATION  
1140 W. EVELYN AVENUE, SUNNYVALE  
EXPLANATION AND JUSTIFICATION

REQUEST

We request the grant of a Conditional Use Permit to allow the Christian Righteousness Education Center ("Education Center") to operate a tutoring and religious education facility at 1140 W. Evelyn Avenue, Sunnyvale.

DESCRIPTION OF USE

The Education Center serves children in grades K-12 and provides tutoring, teaching Chinese and religious education. The Education Center may also offer weekend dance and karate classes. The hours of full operation are 3 p.m. – 6 p.m. weekdays and 9 ~~p.m.~~<sup>a.m.</sup> – 6 p.m. on weekends. The student to teacher ratio at the Education Center is one teacher for each twelve (12) students. There will also be a summer program for 10 weeks with hours of operation from 9 ~~p.m.~~<sup>a.m.</sup> – 6 p.m.

Students are typically dropped off at the Education Center after school with carpooling which accommodates approximately 3-6 students per car. Approximately 70% of the students remain at the facility from 3 p.m. to 6 p.m. and 30% stay for only one hour classes. Approximately 90% of the students are grades K-8 and only 10% are for grades 9-12. The center has received a verbal agreement from Church located at 175 E. Dana St. in Mountain view to grant them to use 80 parking spaces for their use. This Church is less than ¾ mile away.

PROJECT STATUS

1140 W. Evelyn Avenue is a portion of the project which contains four units with addresses 1136-1142 W. Evelyn Avenue. The building is in the process of receiving a condominium map to create a separate unit of 1136 W. Evelyn Avenue (CUP Application No. 2004-0852). It is anticipated that upon completion of the condominium conversion, the Education Center would become the owner of 1136 W. Evelyn Avenue. For this reason, we request that this CUP be analyzed as if 1136 W. Evelyn is its own project with fifteen (15) allocated parking stalls.

JUSTIFICATION

The proposed CUP is desirable and not materially detrimental to the public welfare or invirons to the property, improvements or uses in the vicinity and within the zoning district. The Education Center will benefit the city by providing educational



opportunities to children. The property has been chosen for this use due to its location and existing improvements. Neighboring uses will not be affected by this use. Next door to this proposed use is Sensory Access, another educational facility which provides job training for the visually impaired. The neighborhood contains office, retail and residential uses. The proposed use is desirable for the public welfare and will be detrimental to surrounding uses.



## USE PERMIT JUSTIFICATIONS

The Municipal Code states that at least one of the following two justifications must be met before granting the Use Permit. Illustrating how your project meets at least one of the below criteria will assist the City in reviewing your proposal. Use this sheet or a separate sheet of paper to show how the proposed use:

- 1 ) attains the objectives and purposes of the General Plan of the City of Sunnyvale,

or --

- 2 ) is desirable and not materially detrimental to the public welfare or injurious to the property, improvements or uses within the immediate vicinity and within the zoning district.

~~The education center is a~~ The proposed CUP is desirable and not materially detrimental to the public welfare or injurious to the property, improvements or uses in the vicinity and within the zoning district. The education Center will benefit the city by providing educational opportunities to children. The property has been chosen for this use due to its location and existing improvements. Neighboring uses will not be affected by this use. Next door to this proposed use is Sensory Access, another educational facility which provides job training for the visually impaired. The neighborhood contains office, retail, and residential uses. The proposed use is desirable for the public welfare and will be detrimental to surrounding uses.

If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.